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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/901,338	07/28/97	KEESMAN G	PHB-33945A

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EXAMINER	
RAO,A	

ART UNIT	PAPER NUMBER
2713	

DATE MAILED: 06/30/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.	Applicant(s)
08/901,338	Keesman
Examiner	**Group Art Unit**
Anand Rao	2713

THE PERIOD FOR RESPONSE: [check only a) or b)]

a) ☐ expires _____ months from the mailing date of the final rejection.

b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☒ Appellant's Brief is due two months from the date of the Notice of Appeal filed on *Jun 14, 1999* (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on *Jun 14, 1999* has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☐ The proposed amendment(s):

☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

☐ will not be entered because:

☐ they raise new issues that would require further consideration and/or search. (See note below).

☐ they raise the issue of new matter. (See note below).

☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

☐ Applicant's response has overcome the following rejection(s):

_____

☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Examiner's attachment entitled "Response to Request for Reconsideration..."

☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: _____

Claims objected to: _____

Claims rejected: *1-12 and 14*

☐ The proposed drawing correction filed on _____ ☐has ☐has not been approved by the Examiner.

☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ .

☐ Other

ANAND S. RAO
PATENT EXAMINER

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PATENT EXAMINER
ART UNIT 2713

Response to Request for Reconsideration

1. Applicant's arguments filed on 6/14/99 in Paper 31 with respect to the Examiner's pending rejection of claims 1-12, and 14 under 35 U.S.C. § 102(e) as being anticipated by Kirayama have been fully considered but they are not persuasive.

2. Claims 1-12 and 14 rejected under 35 U.S.C. § 102(e) as being anticipated by Kirayama, as was set forth in the Office Action mailed as Paper 28 mailed on 6/23/98, and made final in the Office Action of 2/2/99 as Paper 28.

The Applicant presents one argument and a request for clarification contending the Examiner's rejection of claims 1-12 and 14 rejected under 35 U.S.C. § 102(e) as being anticipated by Kirayama, as was set forth in the Office Action of 6/23/98 as Paper #23, and made final in the Office Action of 2/2/99 as Paper 28. However, after carefully reviewing the argument and request for clarification the Examiner must respectfully disagree and maintain the grounds of rejection for the reasons that follow.

From the discussion presented, it is clear that the Examiner's explanation was incomplete (Paper 31: page 2, lines 7-9), the correlation that the Examiner intended to show was the relationship between the encoder generated bits, the buffer writing rate, and the encoder delay. Both the Examiner and the Applicant agree that the encoder delay (ED) and buffer readout delay (BD) are constant (THV), as supported by the reference (Kirayama: column 10, lines 15-25), which can be accurately represented by the mathematical expression as put forth by the applicant:

(1) (ED) + (BD) = (a constant THV)

Now, we relate (ED) and (BD) to the buffer input write-in rate (B1) and buffer readout rate (B2). The encoder delay (ED) is equal number of bits generated by the encoder as presented to the buffer which we'll call for the sake of clarity, (Bin), operative in some relation with the buffer write-in rate (B1). Now, arithmetic manipulation of *the units of each these variables in either a proportional relationship or an inverse relationship* will clearly reveal why this relationship (ED) is inversely related to (B1). The Examiner reasonably assumes that unit assignment for the variables would have (ED) measured in seconds, (Bin) represented by a quantity of bits, and the buffer write-in rate (B1) in bits/seconds. If the relationship defining (ED), (Bin), and (B1) were proportional, the standard proportional mathematical expression would be:

(2) $(ED) = (Bin) \times (B1)$

But when one plugs in the units for each of these terms in this proportional relationship, the equation (2) becomes:

(3) ED secs = Bin bits x B1 bits/sec

However, the units of equation (3) do not cancel out to have secs = secs on both side of equation (3). Accordingly, since the units do not support the generation of ED in seconds in a proportional mathematical function, the Examiner would maintain that ED is not proportionally related to B1.

Now, we set up (ED), (Bin), and (B1) in an inverse mathematical function, where the mathematical expression would be:

(4) (ED) = (Bin)/ (B1)

But when one plugs in the units for each of these terms which for this mathematical inverse function, equation (4) becomes:

(5) (ED) secs = (Bin) bits/ (B1) bits/sec

Looking at the units of equation (5), we see that equation (5) does cancel out to have secs = secs on both side of equation (5). Accordingly, since the units support the generation of ED in seconds in through an inverse mathematical function, the Examiner would maintain that ED is inversely related to B1. Now, we'll plug in equation (5) for ED in equation (1), to get:

(6) (Bin)/(B1) + (BD) = (a constant THV)

Now plugging in for (BD) by using an inverse relationship of (Bin)/(B2) which is further identified by the Applicant (Paper 31: page 2, lines 18-22) into equation (6), the relationship is:

(7) (Bin)/(B1) + (Bin)/(B2) = (a constant THV)

As shown by equation (7), this clearly opposes the equational behavior as put forth by the Applicant (Paper 31: page 2, lines 21-25). In particular, it is noted that for the case of ED is increasing, inversely related (B1) is decreasing, and (BD) which counterbalances ED is decreasing, by having the (B2) term increasing. The behavior of (B2) is inversely related to the behavior (B1), since as both terms are controlled by the constant THV. These terms are not canceling each other out, but are opposing forces to a constant. Accordingly, the Examiner maintains that for the reasons set forth above, Kirayama does disclose "...the output bit rate as being inversely related to the input bit rate..." as in the claims.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand S. Rao whose telephone number is (703)-305-4813 .

ANAND S. RAO
PATENT EXAMINER

asr

June 28, 1999